

## THE CITY OF CLAYTON

Board of Aldermen  
City Hall – 10 N. Bemiston Avenue  
May 28, 2013  
7:00 p.m.

### Minutes

Mayor Sanger called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Andrea Maddox-Dallas, Cynthia Garnholz, Mark Winings, Joanne Boulton, and Alex Berger III.

Mayor Sanger  
City Manager Owens  
City Attorney O'Keefe

Mayor Sanger asked for any questions or comments relating to the May 14, 2013 minutes, which were previously provided to the Board.

**Alderman Garnholz moved to approve the May 14, 2013 minutes. Alderman Maddox-Dallas seconded the motion.**

**The motion to approve the minutes passed unanimously on a voice vote.**

### PUBLIC REQUESTS AND PETITIONS

#### LIFE SAVER AWARDS

Chief Mark Thorp reported that on April 20, 2013 an AED provided by Wellbridge Athletic Club & Spa was utilized with CPR to save a life. The City of Clayton and the Clayton Fire Department commends the corporate responsibility given to the members of this facility. The Life Saver Awards were presented to Wellbridge Athletic Club & Spa - Shelly Bittle, Spin Class Instructor and Greg McCarthy, General Manager, Lisa Simani'oren, RN, Dr. Nikoleta Kolovos, and Dr. Robert Barrack.

Mr. Brecht Mulvihill, on behalf of Congresswoman Ann Wagner's office, addressed the Board stating that the new 2<sup>nd</sup> Congressional District is very different now. The District now goes into the very northern part of Jefferson County and also covers a small portion of the southern part of St. Charles County. The City of Clayton is now split, anyone living west of Hanley, is in Congressman Wagner's 2<sup>nd</sup> Congressional District and anyone living east of Hanley, is in the 1<sup>st</sup> Congressional District. He said that Congressman Wagner's office is located in unincorporated St. Louis County (Ballwin) and she is a freshman representative to the House leadership in D.C. and also a member of the Financial Services Committee. He welcomed the Congresswoman's services to the Board if needed.

Mr. Steven Rosenblum, 7501 Westmoreland, stated that he is asking that the Board of Aldermen be aware of the great need for park land in the area. He said that their neighborhood is defined by the space in many ways, as it's been there forever and is a part of the fabric of Clayton. They hope that an equitable solution to keep as much green space as possible will be reached and will suit the needs of the city, the school district, and the residents. They are strongly opposed to high density

housing and note that the property has never been developed since it was gifted by the Hanley family nearly 140 years. They feel that the land which is part of the historic Hanley farm should be kept as open space and would serve as a beautiful northeast entrance to Clayton just as Oak Knoll and Shaw Park which were also saved by prior generations from development. He noted that The City of Clayton Park assessment done several years ago noted the lack of park space in the northeastern corner of the City. They hope that the elected officials will listen to the constituent's needs and make this a priority. He stated that as a community they are motivated to remain a constructive voice in the discussions and that the same petition is being presented at the Board of Education meeting tonight with similar public comment. They have generated petitions with hundreds of signatures and will continue to collect names which he will provide to the City at a later time.

Mr. Rosenblum read the petition as follows: *"We, the undersigned, ask the City of Clayton and the Clayton Board of Education to work together to ensure that the Maryland school property remains green space for our residents. This historic stretch of property is currently a community gathering place, a thriving urban garden, a field for Clayton rec soccer and baseball, in an area that unifies a surrounding neighborhood. In addition property abuts the historic Hanley house and park. Historically there is a precedent in Clayton to acquire property that has been cited for development. Both Shaw Park and Oak Knoll were transformed from private property to public space at critical moments in the City's history. They provide hugely popular assets for our community and the region, we as residents cherish these spots. The vacancy of the Maryland school property is another critical moment in our history one that the City and the school board should not squander. We asked that the Board of Aldermen and the Board of Education pursue an agreement that would allow the property to exist as public space. We respectfully request that you consider the greater good and work to create an equitable solution for all parties."*

Mr. Bruce Butler, 7601 Maryland Avenue, addressed the Board stating that Clayton is a great place to live. He is a local real estate agent and he shared a story about a client that came from Miami and is relocating to the St. Louis area with his family. After visiting several areas in the St. Louis area he ultimately decided on Clayton because it was the best fit for his family with the schools and the unique Clayton lifestyles (walkability, public green space) that is available. Mr. Butler said that he is 100% in support of what Mr. Rosenblum has requested.

Ms. Rosemary Hardy, 7603 Maryland Avenue, addressed the Board stating that her children played at Maryland School several years ago and now a new generation is enjoying the grounds. She encouraged the Board to be open and listen to anyone (with funding) who may approach them about keeping the property a green space area. She expressed her support in maintaining the property as green space.

Mr. Ben Murphy, 7535 Westmoreland, addressed the Board stating that he moved to Clayton three years ago largely because of the property at Maryland School. His family gardens and his children play rec center soccer at the school. He is very much in favor of keeping the property as green space.

Ms. Judy Goodman, 17 Wydown Terrace, and former Ward 1 Alderman, addressed the Board stating that she is in support of more green space and that the Maryland School property is a unique opportunity. She stated that she realizes that the City does not own the property, but pointed out that the City has control over the zoning.

PUBLIC HEARING AND ORDINANCE TO REVISE CHAPTER 410 (OVERLAY & URBAN DESIGN ZONING DISTRICTS) BY THE ADDITION OF ONE NEW ARTICLE, ESTABLISHING THE MARYLAND GATEWAY OVERLAY DISTRICT AND AN ORDINANCE TO AMEND SECTION 410.020

**Mayor Sanger opened the public hearing.**

City Manager Owens reminded the Board that this is a proposed Overlay and Urban Design Zoning District, the Maryland Gateway Overlay District and the intent is to activate the Downtown Master Plan in this area of the City.

Key components of the Maryland Gateway Overlay district include:

- Allows residential land uses in the C-1 (Neighborhood Commercial) and C-2 (General Commercial) Zoning Districts as part of a mixed use development.
- Allows vehicular drive through facilities for financial institutions as a Conditional Use.
- Requires ground floor retail/service and office uses
- Reduces front yard setbacks.
- Encourage pedestrian interconnection to nearby sidewalks and other pedestrian access ways and encourages the creation of pedestrian gathering spaces.
- Establishes design guidelines and requirements for drive through facilities for financial institutions.

This item was the subject of a workshop held on March 18, 2013 in which all property owners within the district and within 250 feet of the district boundaries were notified by letter. Modifications to the document were made based on the input received at the workshop.

A public hearing was held in front of the Plan Commission on April 15, 2013. At that hearing, the Plan Commission recommended some clarifying revisions and voted to unanimously approve the draft ordinance.

This item has been the subject of continuing discussion with staff, interested property owners and the City's legal counsel. It is important to note that there are several properties in the proposed gateway district that already fall within existing overlay districts and also have an approved Special Development District (SDD) or Planned Unit Development (PUD) zoning designation. Both designations allow a property owner to enjoy flexible development rights while providing a stated public benefit. Both are unique zoning districts, tailored to the specific features of the land and development thereon, and are established by ordinance, as a result of the initiation of an application for such designation. Although these zoning districts are amendable, the process for amendment is usually initiated by the property owner, such as when redevelopment is planned.

The City's attorney has advised that these PUD and SDD properties should either be removed from the proposed Maryland Gateway overlay district or exemption language should be added to the proposed overlay district which sets forth the ability for the development regulations approved as part of the SDD or PUD to prevail in the case of a conflict with the proposed gateway overlay regulations.

Given this information, staff recommends additional language changes for better clarification. Staff further recommends that the property addressed as 8025 Maryland Avenue (a PUD) and the property addressed as 24 Maryland Avenue (already located in the Downtown Overlay District) be removed from the proposed Maryland Gateway Overlay District. In effect, this would cause a change to the proposed eastern boundary of the overlay district, relocating it to the centerline of Brentwood Boulevard. (See map below).

Finally, the Board of Aldermen held the first public hearing on these matters on May 14, 2013 and at that meeting tabled the public hearing to May 28, 2013. On May 17, 2013, the Board of Aldermen

discussed the proposed overlay district at a work session. At that work session, the Aldermen helped clarify the intent of the overlay and the proposed design standards, and gave further direction for additional modifications to the proposed overlay district which have been incorporated into the documents.

He noted that the eastern boundary had been moved to the middle of Brentwood which removed the corner properties on the east side of Brentwood Boulevard. Also better clarification was made in the design guidelines for drive-throughs.

Recommendation is to resume the public hearing and to consider approval of the adoption of the modified ordinance which includes modification of the overlay district area as described in the report and indicated in the ordinance.

**Alderman Harris introduced Bill No. 6391 and Bill No. 6392, ordinances to revise Chapter 410, Overlay and Urban Design Zoning Districts, by the addition of one new article, establishing the Maryland Gateway Overlay District and to amend Section 410.020 "Districts" to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

Mayor Sanger asked for clarification of Section 410.825, 2a, regarding the corner lot. Susan Istenes, Planning Director explained that in some zoning districts there is a clarification that exists with respect to applying setbacks on corner lots. By definition, a corner lot is a lot abutting two or more streets at their intersections. When a lot abuts a street that is considered a front yard, the way the zoning ordinance is structure there are setback regulations for front yards, side yards and rear yards. By definition when there is a corner lot any part of the lot that abuts the street is considered a front yard and for purposes of applying the setback regulation a front yard setback provision which is generally the greatest of the three. In this code there is a provision that modifies it by further defining a side yard, a rear yard, along with a front yard on a corner lot. She feels that this was done specifically for this ordinance to possibly give some relief to applying a more restrictive front yard setback.

Mayor Sanger specifically pointed out the wording that states "*a. Where a corner lot exists, the property line opposite to the front yard line...*"

City Attorney O'Keefe explained that most residential lots are longer and have a greater depth than width. What the ordinance says is that the line opposite the longer side (side yard) and the side opposite the shorter frontage would be the rear yard. The reason it is in the ordinance is because if there are two front yards than there would be two rear yards with no side yards.

In response to Mayor Sanger's question, Ms. Istenes further explained that the setbacks on the side would be in accordance with the underlying zoning districts, C-1 and C-2 which establishes a front, rear, and side yard where none would normally exist on a corner lot if there were all four street frontages.

City Manager O'Keefe explained that if the lot had roads across its greater length and on each side would have three front yards for setback purposes. The ordinance is designed to inform the readers what the applicable setback is on the other side of the lot. In other words, when a corner lot exists the property line opposite to the front yard line with the greater street front shall be considered a side; the property line opposite the front yard line with the lessor street frontage shall be considered a rear.

City Attorney O'Keefe confirmed Alderman Boulton's question, in the case that Mayor Sanger gave that there would be three fronts and a side yard in the rear, because the lot is situated to the side of the lots behind it – a maximum of five feet if it abuts residential.

In response to Mayor Sanger's question, Ms. Istenes confirmed that front yards can be built right up to the side walk. Mayor Sanger noted that he has a problem with this allowance.

Alderman Boulton asked for clarification on Section 410.825, "*2b. an accessory building...*" Ms. Istenes stated that in certain circumstances a drive-through bank could be considered an accessory building, but the depth of the lots are so small they could not put a large structure on the lot. The average depths of the lots on the north side of Maryland Avenue are approximately 130-135 square feet.

In response to Alderman Garnholz's question, Ms. Istenes stated that whenever constructing a drive-through facility then the design standards will go into effect and there are criteria that have to be met, which one of the criteria is up to a 15 foot buffer. Some specifics are structured as guidelines (site specific) and some are structured as criteria (mandatory).

Mayor Sanger asked for clarification of Design Guidelines and Requirements for Drive Through Facilities, 3.4 Relationship to Adjacent Uses, Guideline No. 2, "*For drive-through facilities adjacent to residential properties, the stacking lane and/or order box/window associated with a drive-through facility should be setback a minimum distance of 80-100 feet from the residential property boundary to the outside edge of the stacking lane.*" He noted that the property in question is approximately 138 feet and asked how 15 feet relates to this.

Ms. Istenes explained these particular guidelines are set-up for any drive-through facility that might be allowed either as a permitted use or through a conditional use permit. These are general overall guidelines specifically designated for drive-throughs for financial institutions. With respect to the buffer as part of the requirements a noise study will be required for drive-throughs which determine the buffer. She referred Mayor Sanger to Design Criteria No. 3, "*Unless a noise study dictates otherwise, a landscaped buffer zone at least 15 feet wide shall be provided between the drive through facility and residential uses, along each yard.*"

In response to Alderman Boulton's question, Ms. Istenes stated that the minimum required setback of a drive-through lane to a residential area is going to be dependent upon the site which could be less than 15 feet.

In response to Alderman Maddox-Dallas' question, Ms. Istenes explained that Bill No. 6391 relates to the Maryland Gateway Overlay Zoning Districts which include the setback provisions, the use provisions that includes the ability to have a drive-through. Bill No. 6392 is more for "housekeeping" purposes of a clean-up of the code to add the items that were missing in the code.

Mayor Sanger noted that it would be helpful if he could see a sample drawing of the area on what could be allowed because he is a little "foggy" on the possibilities.

Alderman Harris stated that the hard part is that the ordinance is not "cut and dried." It depends on certain variable which leaves some discretion for the Plan Commission to make adjustments and have some flexibility.

Alderman Boulton said that it is important to understand all of the ramifications and the potentials involved.

Alderman Berger stated that he also thinks that giving the opportunity for a developer to present is at the heart of what is trying to be done. They rely on the staff, the Plan Commission, and Architectural Review Board to delve into the specifics to advise and revise and collaborate which then comes to the Board for final. This is an "open for business opportunity" that may not come to

fruition, but it's an open door for opportunity. He feels that the questions are important, but he feels it doesn't cover every single specific as Ms. Istenes indicated there are mitigating factors about the layout of the project, the building materials, the hours of operation and probably ten other variables that language specifically will not ever get them to a "square." There is a rectangle that is a bit flexible and it's flexible around the decision making of the Plan Commission along with staff to get them to a point to say yes, we like it, or no, we don't.

In response to Alderman Boulton's question regarding Section 410.805, Uses Permitted, No. 3 as it relates to mixed-use. Ms. Istenes clarified the definition of a mixed-use building – a building that includes a combination of at least two of the following components: residential uses, commercial uses or office uses. She said that banking would be considered commercial, but also clarified that there are some offices such as real estate, travel agencies, etc. that are considered retail.

In response to Alderman Boulton's question regarding Section 410.805, Planned Unit Development, A., Ms. Istenes explained that it is correct to have office use, residential use, public parking and hotel use incorporated on the ground floor.

Alderman Harris asked for additional clarification and Ms. Istenes explained that although this is a component of a mixed-use they would still want to clarify that the intent is to not allow residential use on the ground floor.

City Attorney O'Keefe noted that Section 410.805 already clarifies what is allowed on the ground floor which includes some species of offices.

In response to Alderman Boulton's question regarding Section 410.835: Site Plan Review and Design Guidelines, B2, Ms. Istenes explained that the Maryland Gateway District in the Master Plan talks about the interconnectivity of the properties, not only with surrounding streets and sidewalks, but other pedestrian ways and accessibility to public facilities, such as Shaw Park that is located nearby. She said that realistically the northern properties are so small all that is available is the sidewalk system that parallels Maryland or, if in the future, the Master Plan talks about possibly doing a secondary street which would be a possibility for additional pedestrian access as well. The south side properties are designed to allow for some internal site circulation as part of their design.

Alderman Garnholz stated that if she understood it correctly there has to be a sidewalk and it must connect to the public sidewalk if there is an internal driveway.

Ms. Istenes stated that is the intent, but is not a mandatory requirement. The intent is not only internal vehicular circulation, but internal pedestrian circulation as well with the idea that the mixed-use project with residential would give the residents living on site easy accessibility to Maryland Avenue and all other facilities in the area.

In response to Alderman Boulton's question regarding Section 410.835, B3, Ms. Istenes stated that yes; they could consider alternatives that would meet the same intent.

In response to Alderman Boulton's question regarding the Design Guidelines, Section 3.5, Site Access and Vehicular and Pedestrian Traffic, Guideline No. 4, Ms. Istenes explained that that goal would be to try to push access points to particular sites away from intersections. There are street design guidelines that specify minimum separation distances from access points along arterial roads.

In response to Alderman Boulton's question regarding Section 410.835, B9, Ms. Istenes stated that the traffic study will evaluate the site design and layout, where the building will be placed, the

access point, where the pedestrian walkways, how vehicles will be traversed around the site, where vehicles will park, entries and exits, etc. The traffic study is dependent upon the initial site layout.

Mr. Gary Feder, Attorney, Husch Blackwell, representing Green Street and Fifth Third Bank. He stated that Fifth Third Bank has done a traffic study and is prepared to submit for site plan review and a conditional use permit at such time that they will be permitted to do so. Green Street has not done a traffic study and it is still to be determined whether they will in fact have in their tenant mix a financial institution with a drive-through. He said that given his desire to move this along he would much prefer to not speak tonight, but unfortunately he cannot wait until later because the way the ordinance is structured, particularly the Design Guidelines and Criteria, there is some risk of the "horse being out of the barn" before there is an opportunity to stop the progress. He thinks that there are some provisions that would certainly raise questions that would be hard to address after the ordinance is enacted. He shared with the Board a draft site plan on the project noting that this is just a draft which has not been submitted to the City, but would be much easier to understand his comments.

Mr. Feder expressed his concerns relating to the ordinance regarding a mixed-use development. He stated that he considers the draft plan as a mixed-use by putting two buildings on the site and wondered if this is what the ordinance meant by mixed-use which is as close to what the developer will get to a mixed-use.

Mayor Sanger thanked Mr. Feder for sharing the draft site plan and noted that the Board will not make a comment as to whether they like or dislike the plan. He did comment that the plan that Mr. Feder shared probably does not meet the guidelines that have been placed in front of them regarding the placement of the building or the frontage requirements. Although they may not have envisioned this type of site plan it does not mean that it would not work. Perhaps Ms. Istenes can take a look at the site plan and get a better application to what was written.

Mr. Feder commented that that is his point, specifically the whole issue of flexibility and at what point in the decision making process is this type of project really evaluated. Because he feels it is possible that a threshold definition of mixed-use when included in the ordinance could essentially eliminate the ability of having the draft site plan considered by the Plan Commission and Board of Aldermen.

Mr. Feder commented that there are two kinds of things they are dealing with, (1) the so-called guidelines, which are essentially recommendations; and (2) design criteria, which are mandatory. He noted the draft drawing that shows drive-up (through) locations which will not work according to the proposed design guidelines and criteria.

Mr. Feder commented on the Design Criteria No. 2, Noise Study, "*Separation distances of less than 80 feet...*" He said that the lot is only 125 feet in depth which the *80 feet* makes no sense in this case. He said that Fifth Third has already paid for a traffic study and has no problem with that, but questions the requirement for a noise study and feels to make this mandatory does not make sense. He requests that the Board of Aldermen and staff reconsider these criteria, clarify the definition of mixed-use so that they can come before the Board with a definite site plan.

Mayor Sanger thanked Mr. Feder for his comments and clarified that his request is for the Board to continue the discussion, make the changes and pass the ordinance. Mr. Feder expressed that he would like for all of this to happen tonight, but realizes that won't and confirmed the request.

Alderman Maddox-Dallas commented that they just finished the Downtown Master Plan and it was specifically stated that the current state is that things are designed for convenient access by car and

that we say in that Plan that Maryland Avenue can be transformed from an auto-focused right-of-way to a human focused corridor and that is what is guiding her. One of the reasons why they are struggling with the guidelines and criteria is that this would be changing the zoning which doesn't mean that another bank may come through requesting a drive-through. She is concerned about the long-term impact due to changing the zoning.

Mayor Sanger moved to close the public hearing.

**Alderman Harris moved to table Bill No. 6391 and Bill No. 6392 until the next Board meeting scheduled for June 11th. Alderman Maddox-Dallas seconded.**

**The motion passed six (6) ayes; one (1) nay – Alderman Garnholz.**

Other

**Alderman Berger moved that Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15). Alderman Boulton seconded the motion.**

**Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye.**

There being no further regular business the meeting was adjourned at 8:27 p.m.

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Mayor

ATTEST:

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City Clerk